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April 1, 2022

VIA ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: In re: New York City Policing During Summer 2020 Demonstrations,
20-CV-8924 (CM)(GWG)

Your Honor:

I am a Senior Counsel in the office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing Defendants in the above referenced matter. Defendants write in response to Plaintiffs' letter of March 28, 2022 concerning the discovery chart the Court ordered Defendants to produce showing the status of document production, including as Plaintiffs described, (1) what Defendants have produced; (2) what Defendants intend to produce by upcoming deadlines; and (3) what Defendants have withheld or intend to withhold and the factual basis of Defendants' position. By the attached updated chart, Defendants believe they have now substantially complied with the Court's orders and will continue that compliance as discovery and production move forward.

Since the Court first ordered the discovery chart to be produced a little more than one month ago, contrary to Plaintiffs' suggestion, Defendants have attempted to follow the Court's instructions and orders to move the discovery process forward diligently and to the best of their ability. And since the first production of the chart, Defendants have provided an updated version of the chart after Mx. Greene indicated they believed parts of the chart were incomplete. Although Defendants did not necessarily agree the chart was insufficient, they, in a gesture of good faith, agreed to supplement the chart. Again, earlier this month, Mx. Greene had additional comments about the chart, which are addressed in the chart provided today.

As described in our letter to the Court dated March 18, 2022, Defendants have been searching for, reviewing, processing, and producing volumes of documents, all at virtually the same time. As various searches have been conducted and completed, and as various volumes of

documents have been reviewed and processed, the Defendants' own understanding of the status of the searches and particularly of the universe of responsive documents has become clearer. We believe that clarity, as well the progress made from Defendant's earnest efforts to comply with the Court's orders, is reflected in the attached charts¹. And we expect that as the searches are completed, the chart will be updated again. Below is a short summary of the information and updates that can be found in the attached chart.

One aspect required of the chart as noted above and as described by Plaintiffs, has been identifying previously produced documents with specificity, i.e., including Bates or volume numbers where appropriate, as described at page 3 of Plaintiffs' letter. To that end, Defendants hired an outside vendor to review their production database and identify and catalog previously produced volumes of documents. The vendor has completed that process and Defendants have updated the chart to reflect more clearly the nature of documents previously produced, how they are identified and where they are located.

Defendants have also updated the attached chart with respect to what Defendants will produce by the Court-ordered April 15, 2022 deadline to include details of the searches conducted and categories of documents sought by those searches. As Plaintiffs are aware, NYPD has been and is actively searching for and producing documents responsive to their requests. Defendants continue to review and process the voluminous documents located by those searches in anticipation of producing them on April 15th and are also finalizing a large production to be released today. To the extent that Defendants can confirm at this stage of that process that either no responsive documents were located, or that documents located will be withheld on the grounds of privilege, it is indicated on the attached chart. With respect to the documents for which Defendants still assert an argument on the grounds of burden, that too is reflected in the updated chart and includes details of the burden of collection.

As expressed to the Court and counsel for Plaintiffs on several occasions, the defendants and their counsel have been working nearly non-stop to ensure that the discovery plaintiffs have requested is collected, reviewed and produced by April 15th. As more discovery is located, or found to not exist, the chart can be updated. The chart is an evolving document; Defendants can't say what they will produce until they know if they possess it or not. Likewise, it is difficult to say where documents are being searched for, since as a search is conducted, often it leads to more and more places to search. The Defendants have done, and continue to do all that is possible to make as complete a chart as possible. They have not violated any Order, and sanctions are inappropriate.

¹ The original master chart has been divided into two separate charts; one for the 101 Consolidated Discovery Requests, the other is for all Discovery Requests served by individual plaintiffs in the Consolidated Cases.

For the reasons stated above, Defendants respectfully request that the Court deny the Plaintiffs' request herein.

Respectfully submitted,

Dara L. Weiss s/

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Attachments

cc: All Counsel (via ECF)